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**BEFORE THE IOWA BOARD OF HEARING AID SPECIALISTS**

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Re:	)	CASE NO. 15-0140
Hearing Aid Specialist License of	)	
	)	
<b>Erin Mishler</b>	)	<b>NOTICE OF HEARING AND</b>
License No. 00900	)	<b>STATEMENT OF CHARGES</b>
Respondent.	)	

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**COMES NOW** the Iowa Board of Hearing Aid Specialists and files this Notice of Hearing and Statement of Charges against Erin Mishler (“Respondent”), pursuant to Iowa Code sections 17A.12(2), 17A.18(3), and 272C.3(1)“e” (2015), and 645 IAC 11.6. Respondent’s license number 00900 to practice as a hearing aid specialist is currently active, and will expire on December 31, 2016.

**A. TIME, PLACE, AND NATURE OF HEARING**

Hearing. A disciplinary contested case hearing shall be held on February 6, 2017, before the Board. The hearing shall begin at 10:30 a.m. and shall be located in the 5<sup>th</sup> Floor Conference Room #526 at the Lucas State Office Building, 321 E. 12<sup>th</sup> Street, Des Moines, Iowa 50319.

Answer. Within twenty (20) days of the date you are served this Notice of Hearing and Statement of Charges, you may file an Answer pursuant to 645 IAC 11.12. The Answer should specifically admit, deny, or otherwise answer all allegations contained in sections C and D of this Notice of Hearing and Statement of Charges.

Filing of Pleadings. Pleadings shall be filed with the Board at the following address: Iowa Board of Hearing Aid Specialists, Lucas State Office Building, 5<sup>th</sup> Floor, 321 E. 12<sup>th</sup> St., Des Moines, Iowa 50319.

Presiding Officer. The Board shall serve as presiding officer, but the Board may request an Administrative Law Judge from the Department of Inspections and Appeals make initial rulings on prehearing matters, and be present to assist and advise the Board at the hearing.

Pre-hearing Conference. Any party may request a prehearing conference in accordance with 645 IAC 11.17 to discuss issues related to the hearing.

Hearing Procedures. The procedural rules governing the conduct of the hearing are found at 645 IAC 11. At the hearing, you may appear personally or be represented by counsel at your own expense. You will be allowed the opportunity to respond to the charges against you, to produce evidence on your behalf on issues of material fact, cross-examine witnesses present at the hearing, and examine and respond to any documents introduced at the hearing. If you need to request an alternative time or date for the hearing, you must comply with the requirements in 645 IAC 11.18. The hearing may be open to the public or closed to the public at your discretion.

Prosecution. The Office of Attorney General is responsible for representing the public interest (the State) in this proceeding. Copies of pleadings should be provided to counsel for the State at the following address:

Rebecca Barloon  
Assistant Attorney General  
Iowa Attorney General's Office  
2<sup>nd</sup> Floor, Hoover State Office Building  
Des Moines, Iowa 50319

Ms. Barloon can also be reached by phone at (515) 281-5112 or by e-mail at rebecca.barloon@iowa.gov.

Communications. You may contact the Board office at (515) 281-6959 with questions regarding this notice and other matters relating to these disciplinary proceedings. You may not contact individual Board members in any manner, including by phone, letter, or e-mail, regarding this Notice of Hearing and Statement of Charges. Board members may only receive information about the case when all parties have notice and the opportunity to participate, such as at the hearing or in pleadings you file with the Board office and serve upon all parties in the case.

## **B. LEGAL AUTHORITY AND JURISDICTION**

Jurisdiction. The Board has jurisdiction in this matter pursuant to Iowa Code chapters 17A, 147, 154A, and 272C (2015).

Legal Authority. If any of the allegations against you are founded, the Board has authority to take disciplinary action against you under Iowa Code chapters 147, 154A, and 272C, and 645 IAC 13 and 124.

Default. If you fail to appear at the hearing, the Board may enter a default decision or proceed with the hearing and render a decision in your absence, in accordance with Iowa Code section 17A.12(3) and 645 IAC 11.21.

## **C. CHARGES**

### **Count I**

1. Respondent is charged with habitual intoxication in violation of Iowa Code section 154A.21(3)(f) and 147.55(4) and 645 Iowa Administrative Code rule 124.2(10)(a).

### **Count II**

2. Respondent is charged with failing to notify the board of a criminal conviction within 30 days in violation of Iowa Code section 154A.24(3)(t) and 147.55(9) and 645 Iowa Administrative Code rule 124.2(20).

### **Count III**

3. Respondent is charged with willfully making a false statement in an application for a renewal license on his 2014 renewal application in violation of Iowa Code section 154A.25(5) and 147.55(1) and 645 Iowa Administrative Code rule 124.2(2).

### **Count IV**

4. Respondent is charged with failing to cooperate with a board audit in violation of Iowa Code section 154A.21(3)(s) and 147.55(9) and 645 Iowa Administrative Code rule 4.13(1).

### **D. FACTUAL CIRCUMSTANCES**

1. Respondent is a licensed hearing aid specialist in the State of Iowa, with license number 00900. His license is active and currently set to expire on December 31, 2016.
2. Respondent has been convicted of the following criminal offenses: 3 operating while intoxicated convictions in 2007, 2008, and 2014, and public intoxication convictions in 2005 and 2008, all in Polk County, Iowa.
3. In November 2009, Respondent was sent a letter of education for his failure to report an OWI conviction from 2008.
4. On his 2014 renewal application, Respondent failed to disclose any of his previous criminal convictions.
5. In May 2015, Respondent was selected for a post renewal continuing education audit.
6. Respondent failed to respond to two certified letters regarding the audit.

### **E. SETTLEMENT**

This matter may be resolved by settlement agreement. The procedural rules governing the Board's settlement process are found at 645 IAC 12.1. If you are interested in pursuing settlement in this matter, please contact Assistant Attorney General Rebecca Barloon at (515) 281-5112.

### **F. FINDING OF PROBABLE CAUSE**

On this 14th day of November, 2016, the Iowa Board of Hearing Aid Specialists found probable cause to file this Notice of Hearing and Statement of Charges.



Chairperson, Iowa Board of Hearing Aid Specialists

Copy to:

Rebecca Barloon  
Assistant Attorney General  
Hoover Building, 2<sup>nd</sup> Floor  
Des Moines, IA 50319

PLEASE NOTE: If you require the assistance of auxiliary aids or services to participate in this matter because of a disability, immediately call 515-281-0233. (If you are hearing impaired, call Relay Iowa TTY at 1-800-735-2942).